

UNITED STATES DISTRICT COURT

DISTRICT OF SOUTH DAKOTA

SOUTHERN DIVISION

JAMES IRVING DALE,
BRIAN MICHAEL HOLZER,
MICHAEL EUGENE KOCH,
DEMETRIUS PETRO COLAITES,
TREVOR JOHN ERICKSON,
GUY ALLEN BLES,
KEVIN CHRISTOPHER CRANK,
JAMES EDWARD HAYES,
EDWARD EUGENE DARITY,
JOSIA JEREMIAH FUERST,
ROBERT EUGENE BLACKWELL,
JEFFERY JACOB-DANIEL
KLINGHAGEN,
DENNIS LOUIS STANISH, II,
UNKNOWN MIKE DURFEE STATE
PRISON INMATES,

Plaintiffs,

vs.

DENNIS KAEMINGK, SOUTH DAKOTA
SECRETARY OF CORRECTIONS; IN
HIS INDIVIDUAL AND OFFICIAL
CAPACITY; ROBERT DOOLEY,
WARDEN AT MDSP AND THE
DIRECTOR OF PRISON OPERATIONS
FOR THE SOUTH DAKOTA DOC; IN
HIS INDIVIDUAL AND OFFICIAL
CAPACITY; JOSHUA KLIMEK, UNIT
MANAGER AT MDSP; IN HIS
INDIVIDUAL AND OFFICIAL CAPACITY;
TAMMY DEJONG, UNIT
COORDINATOR AT MDSP; IN HER
INDIVIDUAL AND OFFICIAL CAPACITY;
SUSAN JACOBS, ASSOCIATE WARDEN
AT MDSP; IN HER INDIVIDUAL AND
OFFICIAL CAPACITY; REBECCA

4:15-CV-04103-RAL

REPORT AND RECOMMENDATION

<p> SCHIEFFER, ASSOCIATE WARDEN AND THE ADMINISTRATIVE REMEDY COORDINATOR AT MDSP; IN HER INDIVIDUAL AND OFFICIAL CAPACITY; JENNIFER STANWICK, DEPUTY WARDEN AT MDSP; IN HER INDIVIDUAL AND OFFICIAL CAPACITY; MICHAEL DOYLE, CORRECTIONAL OFFICER, WITH THE RANK MAJOR, AT MDSP; IN HIS INDIVIDUAL AND OFFICIAL CAPACITY; JEREMY LARSON, CORRECTIONAL OFFICER, WITH THE RANK SERGEANT, AND THE DISCIPLINARY HEARING OFFICER AT MDSP; IN HIS INDIVIDUAL AND OFFICIAL CAPACITY; COREY TYLER, CORRECTIONAL OFFICER, WITH THE RANK SERGEANT, AT MDSP; IN HIS INDIVIDUAL AND OFFICIAL CAPACITY; MICHAEL MEYER, CORRECTIONAL OFFICER AT MDSP; IN HIS INDIVIDUAL AND OFFICIAL CAPACITY; KELLY TJEERDSMA, CORRECTIONAL OFFICER, WITH THE RANK CORPORAL, AT MDSP; IN THEIR INDIVIDUAL AND OFFICIAL CAPACITY; LORI DROTZMAN, GENERAL EDUCATION DIPLOMA TEACHER, WHO ALSO IS IN CHARGE OF THE LAW LIBRARY AT MDSP; IN HER INDIVIDUAL AND OFFICIAL CAPACITY; MICHAEL JOE HANVEY, PHYSICIANS ASSISTANT AND HEALTH CARE PROVIDER AT MDSP; IN HIS INDIVIDUAL AND OFFICIAL CAPACITY; ANDRA GATES, NURSING SUPERVISOR AND HEALTH CARE PROVIDER AT MDSP; IN HER INDIVIDUAL AND OFFICIAL CAPACITY; KELLY SWANSON, HEALTH SERVICES SUPERVISOR AT MDSP; IN THEIR INDIVIDUAL AND OFFICIAL CAPACITY; STEPHANIE HAMILTON, NURSE AT MDSP; IN HER INDIVIDUAL AND OFFICIAL CAPACITY; MARY </p>	
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CARPENTER, EMPLOYEE OF THE SOUTH DAKOTA DEPARTMENT OF HEALTH AND ASSISTS WITH INMATE HEALTH CARE DECISIONS FOR INMATES INCARCERATED AT MDSP; IN HER INDIVIDUAL AND OFFICIAL CAPACITY; BARRY SCHROETER, SUPERVISOR FOR CBM CORRECTIONAL FOOD SERVICES AT MDSP; IN HIS INDIVIDUAL AND OFFICIAL CAPACITY; JENNIFER BENBOON, DIETITIAN EMPLOYED BY CBM CORRECTIONAL FOOD SERVICES; IN HER INDIVIDUAL AND OFFICIAL CAPACITY; CBM CORRECTIONAL FOOD SERVICES, PRIVATE FOR PROFIT COMPANY CONTRACTED BY THE SOUTH DAKOTA DOC TO PROVIDE MEALS TO INMATES INCARCERATED AT MDSP; DELMAR SONNY WALTERS, ATTORNEY AT LAW CONTRACTED BY THE SOUTH DAKOTA DOC TO PROVIDE LEGAL SERVICES TO INMATES INCARCERATED AT MDSP; IN HIS INDIVIDUAL AND OFFICIAL CAPACITY; UNKNOWN DEPARTMENT OF CORRECTIONS EMPLOYEES, CORRECTIONAL OFFICERS EMPLOYED BY THE SOUTH DAKOTA DOC WHO WORK AT MDSP; UNKNOWN DEPARTMENT OF CORRECTIONS HEALTH SERVICES STAFF, HEALTH SERVICES DEPARTMENT STAFF EMPLOYED BY THE SOUTH DAKOTA DOC TO PROVIDE HEALTH CARE FOR INMATES INCARCERATED AT MDSP; AND UNKNOWN CBM CORRECTIONAL FOOD SERVICES EMPLOYEES, EMPLOYEES OF CBM CORRECTIONAL FOOD SERVICES AT MDSP;

Defendants.

By order dated November 17, 2015, plaintiffs James Irving Dale, Michael Eugene Koch, Dennis Louis Stanish, II, Demetrius Petro Colaites, James Edward Hayes, Trevor John Erickson, Brian Michael Holzer, Guy Allen Blesi, Josia Jeremiah Fuerst, Jeffery Jacob-Daniel Klinghagen and Robert Eugene Blackwell were granted in forma pauperis status. With the exception of plaintiffs Hayes and Fuerst, all plaintiffs were assessed an initial partial filing fee. Plaintiffs were ordered to pay their initial partial filing fee by December 31, 2015, and were warned if they did not do so they would be dismissed as a plaintiff from the case. See Docs. 64-72, 74-75.

Plaintiff Dale requested an extension of the deadline to pay his initial partial filing fee. By order dated December 10, 2015, the deadline for plaintiff Dale to pay his initial partial filing fee was extended to February 16, 2016. See Docs. 77-78.

As of today's date, only plaintiffs Erickson, Klinghagen, Blackwell, Colaites and Koch have paid their initial partial filing fees. Despite being warned that failure to comply with the court's order would result in their dismissal from the case, plaintiffs Dale, Holzer, Blesi, and Stanish have not paid their initial partial filing fee. Accordingly, it is hereby

RECOMMENDED that James Irving Dale, Brian Michael Holzer, Guy Allen Blesi, and Dennis Louis Stanish, II, be dismissed as plaintiffs from this lawsuit.

NOTICE TO PARTIES

The parties have fourteen (14) days after service of this Report and Recommendation to file written objections pursuant to 28 U.S.C. § 636(b)(1), unless an extension of time for good cause is obtained. Failure to file timely objections will result in the waiver of the right to appeal questions of fact. Objections must be timely and specific in order to require de novo review by the District Court. Thompson v. Nix, 897 F.2d 356 (8th Cir. 1990); Nash v. Black, 781 F.2d 665 (8th Cir. 1986).

DATED this 22nd day of February, 2016.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Veronica L. Duffy", is written over a horizontal line.

VERONICA L. DUFFY
United States Magistrate Judge